

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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ROBERT HAMMERSLEY,

Plaintiff,

ORDER

v.

14-cv-196-wmc

BARBARA DELAP, *et al.*,

Defendants.

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Plaintiff Robert Hammersley has filed a proposed civil action pursuant to 42 U.S.C. § 1983, against eight dentists, eight unnamed dental assistants and others employed by the Wisconsin Department of Corrections. He has been found eligible to proceed without prepayment of fees for purposes of the federal *in forma pauperis* statute, 28 U.S.C. § 1915(e)(1), and he has filed a motion for “appointment of counsel.” (Dkt. #3.) For the reasons set forth briefly below, the court must deny the motion at this time.

First, plaintiff should be aware that civil litigants have no constitutional or statutory right to the appointment of counsel. *E.g.*, *Ray v. Wexford Health Sources, Inc.*, 706 F.3d 864, 866 (7th Cir. 2013); *Luttrell v. Nickel*, 129 F.3d 933, 936 (7th Cir. 1997). The court may exercise its discretion in determining whether to recruit counsel *pro bono* to assist an eligible plaintiff who proceeds under the federal *in forma pauperis* statute. *See* 28 U.S.C. § 1915(e)(1) (“The court may request an attorney to represent an indigent civil litigant *pro bono publico*.”); *Luttrell*, 129 F.3d at 936. The court cannot, however, “appoint” counsel to represent an indigent civil litigant; it merely has the discretion to recruit a volunteer in an appropriate case.

Second, assuming that he seeks court assistance in locating a volunteer, his request for such assistance is premature. Before this case may proceed, the court is required by the federal *in forma pauperis* statute to screen the complaint and determine whether any portion is frivolous or malicious, fails to state a claim upon which relief may be granted or seeks monetary relief from a defendant who by law is immune from such relief. *See* 28 U.S.C. § 1915(e)(2)(b). The court will issue a separate order on plaintiff's request for leave to proceed under the federal *in forma pauperis* statute once it has screened the complaint and any attached exhibits. Until the court completes the screening process and determines whether the case may proceed, plaintiff's request for assistance in locating volunteer counsel must be denied. Plaintiff may, however, re-file a motion requesting assistance in recruiting volunteer counsel *after* the court has issued a screening order in this case for purposes of 28 U.S.C. § 1915(e)(2)(b).

#### ORDER

IT IS ORDERED that plaintiff Robert Hammersley's motion for appointment of counsel (dkt. #3) is DENIED without prejudice as to later reconsideration.

Entered this 25th day of March, 2014.

BY THE COURT:

/s/

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WILLIAM M. CONLEY  
District Judge